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U.S. DISTRICT COURT
DISTRICT OF MARYLAND

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

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THE COALITION FOR EQUITY AND EXCELLENCE
CLERK'S OFFICE
IN MARYLAND HIGHER EDUCATION, INC., ET AL.
AT BALTIMORE

BY _____ DEPUTY

Plaintiffs,

Civil No. MJG-06-2773

v.

MARYLAND HIGHER EDUCATION COMMISSION, ET AL.

Defendants.

PLAINTIFFS' MOTION TO WITHDRAW REQUEST FOR CLASS CERTIFICATION

Plaintiffs, Coalition for Equity and Excellence In Maryland Higher Education, Inc., et al., by counsel, Ray Kohlman, move this court to withdraw without prejudice their request for class certification and state as follows:

1. Plaintiffs brought the above class-action against defendants, alleging three claims, consisting of violation the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, violation of Title VI of the Civil Rights Act of 1964, and breach of a 2000 Partnership Agreement contract between Defendant Maryland Higher Education Commission and the United States Department of Education, Office of Civil Rights ("OCR").
2. On April 1, 2008, the Court issued an Order, directing Plaintiffs to move for class certification by May 2, 2008 and setting a schedule to permit discovery on the issue.

3. In accordance with the Court's April 1st Order, Plaintiffs moved for class certification on May 2, 2008, prior to having received Defendants' responses to Plaintiffs' discovery requests.¹
4. Indeed, between April 24, 2008 and June 26, 2008, Plaintiffs and Defendants exchanged discovery requests but were unable to resolve a dispute regarding the scope of relevant discoverable information covered by the Court's April 1, 2008 Order.
5. On July 2, 2002, the Court issued an Order referring the matter of class certification discovery to Magistrate Judge Beth P. Gesner.
6. While the matter of class certification discovery remained pending before Magistrate Judge Gesner, On August 11, 2008, the Court held a hearing on a Motion for Partial Summary Judgment by Defendants regarding Plaintiffs' claim of breach of the OCR Partnership Agreement contract.
7. At the conclusion of the hearing, the Court issued an Order on the same day, directing the parties to begin discovery immediately on the merits of the case, and setting dates for various pre-trial matters.
8. Plaintiffs believe that the August 11th Order of the Court directing discovery on the merits is likely not only to settle the class certification discovery dispute now pending before Magistrate Judge Gesner, but also that merits discovery contemplated under the August 11th Order will also likely permit Plaintiffs to more fully brief the Court on the question of whether the pending action should proceed as a class.

¹ Defendants opposed Plaintiffs' motion for class certification on August 1, 2008.

9. Therefore, Plaintiffs respectfully moves the Court to withdraw without prejudice their Motion for Class Certification dated May 2, 2008, until such time as Plaintiffs may appropriately renew the motion in the course of discovery.

/s/ _____

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SO ORDERED, on Monday, August 25, 2008.

/s/ _____

Marvin J. Garbis
United States District Judge